

Arlington Conservation Commission

Executive Session Minutes

April 6, 2017

Executive Session – Active Litigation: Seaver Construction Co. v. Arlington Conservation Commission, Middlesex Sup. Ct. Civ. A. No. 1681CV03021 for 12 Clyde Terrace

J. White/C. Connors moved to go into executive session for pending litigation of 12 Clyde Terrace. There followed a roll call vote:

Nathaniel Stevens – yea, Curt Connors – yea, Mike Nonni – yea, Charles Tirone – yea, Susan Chapnick – yea, David White - yea and Janine White – yea. Motion passed unanimously.

Also present was non-voting Associate member Cathy Garnett and acting Conservation Administrator Eileen Coleman. Mr. Doug Heim, Arlington Town Counsel, joined Commission members present in the second floor conference room of the Town Hall Annex by phone.

Mr. Heim explained that he has negotiated with the plaintiff's counsel and they will not agree to decrease the size of the house. Together they have identified modifications to try to address Arlington Conservation Commission's concerns. Those modifications are:

1. Will move the proposed house back by 1 foot away from resource area. Cannot move further due to driveway steepness.
2. Willing to engage in remediation of wetland behind property.
3. Willing to increase number of plantings.
4. Willing to change deck in favor of pervious patio (may need building waiver).
5. Willing to provide property/wetland boundary.
6. *Willing to cantilever part of the building so there is 1-2' additional open space on patio side.*

In the ensuing discussion it was noted that 18 square feet of potential plantings would be gained, since the back of the house is 18 feet wide, and 40 square feet of additional pervious surface.

The cantilever option (no. 6 above) was not liked by the Commission and not approved. Also, in order to reduce the chances of future litigation, Mr. Heim should include a provision that recognizes the uniqueness of this situation in terms of removing impervious surface of a pool and patio within 50-feet of the resource.

S. Chapnick/D. White moved that the Conservation Commission agrees in principle that the first 5 categories of project changes would be satisfactory in settling the pending litigation; Mike Nonni – yea, Susan Chapnick – yea, David White – yea, Chuck Tirone – yea, Curt Connors – yea, Janine White – yea. Motion passed unanimously.

It was discussed that the next steps would be to work out details in each of these 5 categories.

D. White/C. Connors motioned to go back into regular session. Roll call vote ensued: Nathaniel Stevens – yea, Mike Nonni – yea, Susan Chapnick – yea, David White – yea, Charles Tirone – yea, Curt Connors - yea and Janine White – yea. Motion passed unanimously.

Meeting adjourned at 10:30pm.

Respectfully submitted,

Eileen Coleman, Temporary Conservation Administrator